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C O N F I D E N T I A L SECTION 01 OF 03 SUVA 000241

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SUBJECT: FIJI AND THE EU: A "POSITIVE OUTCOME"; QUESTIONS
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Summary

11. (C) The EU-Fiji negotiations in Brussels April 18-19 were seen as reasonably successful by both sides. The EU figures it has achieved a pragmatic set of requirements that Fiji must meet to re-instate rule of law and human rights and to build to new elections within two years. Fiji's interim government probably figures it has created enough loopholes that it can find wiggle room to delay things as necessary. The EU says it will carefully observe developments and will only release aid funds if progress across the board is satisfactory. In light of the Brussels results, the EU plans to release a first tranche of sugar assistance shortly. Thorny issues remain, and we are skeptical. Still, if the interim government does make good-faith efforts on the road to important reforms, the USG should seriously consider assisting election preparations with other donors in a coordinated way. The EU has particularly inquired about census expertise, finding a supervisor of elections, and offering wise advice for somehow establishing a legitimate way to make important governmental appointments during an interim period when those in power are illegitimate. End summary.

Pre-negotiations behind the scenes in Suva

12. (C) Fiji's interim government (IG) has characterized the outcome of its April 18-19 consultations with the EU in Brussels as generally "positive." Such discussions are mandated under the EU's Cotonou Agreement when an aid recipient suffers a coup. The EU rep in Suva, Roberto Ridolfi, sees the result as somewhat hopeful, though he acknowledges that much work remains to be done to translate sometimes-vague commitments into concrete progress on a return to democratic values. Ridolfi said most of the actual negotiations with Fiji's interim government took place in Suva in the two weeks prior to the Brussels meeting in a "non-megaphone" environment. Ridolfi and reps from the UK and French embassies met privately with Bainimarama and a number of IG cabinet members, sometimes repeatedly.

Bainimarama's mind set and a human rights concern

13. (C) Ridolfi and the UK Charge both commented to us that it was obvious interim cabinet members are not a united front.

They all have personal agendas. The only unifying factor is Bainimarama's will. The UK Charge said it was obvious that Bainimarama and his Military Council are paramount. It was also obvious that Bainimarama truly believes he can force people to become non-racist and accept an RFMF-endorsed government before elections occur. He is convinced, though, that most Fiji citizens are already "on board," which is why no dissent is now obvious. Still, Bainimarama told the European diplomats, "if someone insults the President or the RFMF, of course we must have them taken to the barracks and have them beaten up."

Did the interim government underestimate the EU?

14. (C) The UK Charge believes the IG completely underestimated how well the EU could see through IG arguments and how tough the EU would be. It was obvious that the IG was looking to insert loopholes and fudge factors to muddy EU efforts to enforce inconvenient aspects of any final agreement. The IG team to Brussels led by interim Foreign Minister Nailatikau also included interim Finance Minister Chaudhry and interim Attorney General Sayed-Khaiyum. Ridolfi noted that Chaudhry and Sayed-Khaiyum appeared to act "in tandem," with Nailatikau operating separately. During the discussions, Sayed-Khaiyum did much of the talking, and Chaudhry was a non-factor. (Note: that is very unlike Chaudhry.) At one point, after Sayed-Khaiyum had repeatedly attempted to justify IG actions as "legal under the Constitution," an EU Director General reportedly lost all patience and instructed: "Don't try to say things are legal when they simply are not."

Red lines secure, but compromises

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15. (C) In the end, the EU compromised on a series of issues but never crossed its "red lines." We are told the "red lines" included: no more than 24 months to elections; an end to the state of emergency; the rule of law; and adequate protection for human rights. The EU obtained a 24-month time frame to free and fair elections, counting from March 1, 2007, after initially asking for 18 months in the face of an IG insistence on 36 or more months. It also received rather general commitments to protect human rights and due process of law. The EU dropped its proposal that Bainimarama and the Republic of Fiji Military Forces (RFMF) withdraw from government roles. That was going to be a serious sticking point, and the EU figured any "civilian" replacement for Bainimarama as interim PM, or replacements for other military officers in other key roles, would in reality be puppets. Better to deal with the guys actually exercising power.

A package: commitment brings aid; EU decides

16. (C) Ridolfi said the final agreement is "a package." EU aid money flows only if the entire package, "100%," is being achieved. "There is no short cut" to allow a lesser flow. Ridolfi told us defining details and setting interim timelines is totally in the EU's hands. The IG can offer excuses, but the EU has total freedom to judge. An example is an IG commitment to remove Fiji's state of emergency in May, "subject to" evaluation of the actual security threat. The "subject to" language may appear soft, and indeed the IG may attempt to claim a security threat continues; however, the EU will insist on persuasive evidence before accepting delay. In that regard, Ridolfi said the EU would welcome USG help in judging whether, if a delay is sought, any IG justification actually reflects the threat reality. (Note: media in Suva have said the EU set a May 5 deadline for removing the state of emergency. Ridolfi said the IG commitment is to remove it "in May.")

EU already sees a degree of difference

17. (C) The EU is already seeing a degree of difference in the

IG's approach to issues. Now that the Brussels agreement requires the IG to follow constitutional processes in appointing a new Vice President, Bainimarama's earlier suggestion, after the Great Council of Chiefs rejected the President's nominee, that the new VP would be named by presidential decree seems to have been shelved. When we noted that, instead, there now are indications the IG will attempt to pack the Great Council of Chiefs with new, malleable members and achieve its choice of VP in that constitutionally shaky way, Ridolfi acknowledged that some issues will be complex and the IG may try to wedge itself into loopholes. He insisted, though, that the EU will be observant and alone will judge results.

Turning on the money flow

18. (C) Ridolfi said decisions about the money flow are for Brussels. If it appears the IG is performing appropriately across all benchmarks, the tap will open. If not, it will stop. At this point, given a "positive outcome" from the Brussels meeting and a desire to encourage cooperation, Ridolfi expects to announce shortly the release of F\$9 million (US\$5.5 million) in aid as a "confidence building" measure. Another F\$44 million (US\$28 million) is in the works, with another F\$120 million (US\$73 million) in the pipeline. (Comment: we acknowledged it is the EU's money, but suggested that, at most, an initial dribble rather than a gusher would be appropriate, given that actual results thus far are quite modest and Bainimarama responds much more usefully to sticks than to carrots.)

How to deal with the "appointments" issue?

19. (C) Ridolfi observed that the governmental appointments process is very complicated in this interim period. The EU realizes that the IG has no legal power to make appointments, yet "constitutional" appointments do need to be made, including to important organizations like the Judicial Services Commission. Some sort of "proxy parliament" is needed, not dominated by the IG yet acceptable to Bainimarama, "who holds power after all." Ridolfi is

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wondering if an adaptation of a "People's Charter" concept might work: a group of distinguished leaders from a variety of Fiji organizations, perhaps co-chaired by Bainimarama and the former VP, Ratu Joni Madraiwiwi, with the mandate to make legitimate appointments and oversee any civic- and voter-education drives in the lead-up to elections. When we expressed skepticism that any such body would really be free enough of RFMF influence to truly be considered "legitimate," Ridolfi acknowledged the point but reiterated that the EU, needing to be "both cynical and practical," is looking for an answer. He asked, "Does the U.S. have a creative idea on this?"

U.S. help for a census and other electoral efforts?

110. (C) As regards the elections process, Ridolfi is just as confident as we are that a free and fair election could be accomplished in well under 24 months. Clearly, though, the IG wants to stretch things out, to give time to re-educate the Fiji public to think in "non-racist," progressive terms, and lay a positive track record for itself. Ridolfi argued it is in the international community's interest to provide assistance to facilitate a credible and timely election process. He noted a need to tap resources beyond those of Australia and New Zealand. He was aware that a U.S. census expert (Michael Levin) has provided technical assistance to Fiji in the past, and he wondered if the U.S. could provide such assistance now. We noted the USG's step-by-step approach about any re-engagement, but did observe that we have not hindered Levin's consultations with Fiji's census bureau. We agreed to check on possibilities. Ridolfi also said a supervisor of elections will be needed for a two-year appointment. Nobody within Fiji has both the credentials and

the willingness to serve in that role. Would the U.S. know of an appropriate candidate? We offered to check.

Comment

¶11. (C) The EU believes it achieved a reasonable outcome from the Brussels meeting, a "pragmatic approach," recognizing the power realities on the ground, that may motivate Bainimarama and his interim government to reform their act and move to elections within two years. Bainimarama's own red lines (to maintain control, to protect his skin, to transform the Fijian mind set) would seem not to be compatible with such near-term reforms. Thus, we retain a healthy dose of skepticism about the prospects. Ridolfi, himself, claims to be skeptical as well, though he is accenting "pragmatism" for now and clearly wants to see the aid flow resume. An element that will affect the EU's approach is the Pacific Islands Forum working group that is about to hire a team of elections specialists to evaluate just how long really is needed to achieve an acceptable election and is to report back in six weeks.

¶12. (C) To the extent the IG does undertake concrete steps to begin to meet the EU's and PIF's expectations, which would most likely begin to meet USG expectations, too, it would be appropriate for USG election-oriented assistance and advice to flow with that of others. Discussion is already under way among donors about the need to coordinate such efforts. For now, does Washington have any advice we can provide the EU regarding the questions raised in para's 9 and 10: a way to legitimize appointments? near-term census assistance? a savvy candidate from somewhere for supervisor of elections?
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